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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/006,059
Filing Date: December 06, 2001
Appellant(s): BANERJEE ET AL.

Volel Emile
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 26, 2005 appealing from the Office action mailed June 07, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of invention contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal:

- Lienhard et al., (6,778,863) issued on August 07, 2004.
- Slaughter et al., (6789,077) issued on September 07, 2004.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-20 are presented for examination.

2. Claims 1-3, 6-8, 11-13, and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Lienhard et al., U.S. Patent No. 6,778,863 (hereinafter Lienhard).

3. With respect to claims 1, 6, 11, and 16, Lienhard teaches a method of performing network protocol simulation using an eXtensible Markup Language (XML) document, the XML document representing network communication exchanges, the network protocol simulation including changes made in the XML document to effect changes in the network communication exchanges [fig.1], the method comprising the steps of:

- generating an XML document using network protocol data packets [For example, Lienhard discloses direct data exchange between simulator **1** and the real process **3** can now take place via a common standard format such as XML and both preferably take place via simple data exchange by mean of XML document (col.4, lns.32-35 and col.2, lns.14-23 and fig.1). Further, Lienhard clearly teaches the Internet standard XML is used (col.4, lns.62-63 i.e. the Internet standard suggests the network protocol such as HTTP being used). Therefore, Lienhard suggests the step of generating an XML document using network protocol data packets]; and
- changing [col.2, ln.60 - col.3, ln.6 i.e. modification] a part of the XML document to perform the network protocol simulation [For instance, Lienhard discloses the real process can return XML data to the simulator and the behavior of the real process is influenced while during feedback the depiction of the state takes place form the real process to the simulator (col.4, lns.32-64). Therefore,

Lienhard suggests the step of changing a part of the XML document to perform the network protocol simulation].

4. With respect to claims 2, 7, 12, and 17, Lienhard further teaches changing design characteristics of the network protocol to effect the XML document generation process [= the real process is continuously updated, col.5, lns.9-21].

5. With respect to claims 3, 8, 13, and 18, Lienhard further teaches the resultant XML document is used as a simulation aid [= simulation tool, col.4, ln.56 - col.5, ln.21].

6. Claims 4-5, 9-10, 14-15, and 19-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Lienhard as applied to claim 1, 6, 11, and 16 above, and further in view of Slaughter et al., U.S. Patent No. 6,789,077 (hereinafter Slaughter).

7. With respect to claims 4, 9, 14, and 19, Lienhard does not explicitly show that XML document is validated using a schema.

In an exchanging XML document method, Slaughter discloses XML document is validated using a schema [col.17, lns.54-66 and col.21, lns.25-65 i.e. the XML content may be strongly typed and validated using schemas].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lienhard in view of Slaughter by validating XML document using a schema because this feature may ensure that only valid XML content is passed in a message [Slaughter, col.17, lns.65-66]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify Lienhard in view of Slaughter in order to support a variety of clients [Slaughter, col.21, lns.39-41].

8. With respect to claims 5, 10, 15, and 20, Lienhard further teaches new data packets are used to change the XML document [i.e. the real process is continuously updated, col.5, lns.9-21and col.4, lns.47-55].

(10) Response to Argument

In the remarks, applicant argued in substance that

I. **Lienhard's process simulation using XML documents is quite different from performing network protocol simulation using XML document.**

As to point (I), Examiner respectfully disagrees because Lienhard clearly discloses that the process model runs in the simulator is usually a computer or a computer network [i.e. performing simulation in a computer network, col.4, lns.33-34]. Further, Lienhard clearly teaches the Internet standard XML is used [i.e. the Internet standard suggests the network

protocol such as HTTP being used, col.4, lns.62-63]. Therefore, Lienhard teaches or suggests a step of performing network protocol simulation using XML [col.4, lns.32-64 and fig.1].

II. **Lienhard et al. do not teach, show or suggest the steps of changing a part of an XML document that has been generated using network protocol data packets to perform network protocol simulation.**

As to point (II), Examiner respectfully disagrees because Applicant's argument does not commensurate with the scope of the claim. The claims 1, 6, 11, and 16 only recite the limitation of changing a part of an XML document to perform network protocol simulation [see claim 1, page 6 of 10 in Appeal Brief]. However, claims 1, 6, 11, and 16 do not recite the limitation of changing a part of an XML document that has been generated using network protocol data packets to perform network protocol simulation (emphasis added). Therefore, Lienhard teaches or suggests a step of changing a part of the XML document to perform the network protocol simulation. For instance, Lienhard discloses the real process can return XML data to the simulator and the behavior of the real process is influenced while during feedback the depiction of the state takes place form the real process to the simulator [col.4, lns.32-64]. Further, changing a part of the XML document [= modification, see col.2,

ln.60 - col.3, ln.6] and the real process is continuously updated [col.5, lns.9-21].

III. Lienhard et al. do not teach, show or suggest the steps of generating an XML document using network protocol data packets and changing a part of the XML document to perform network protocol simulation.

As to point (III), Examiner respectfully disagrees because Lienhard teaches or suggests a step of changing a part of the XML document to perform the network protocol simulation. For instance, Lienhard discloses the real process can return XML data to the simulator and the behavior of the real process is influenced while during feedback the depiction of the state takes place form the real process to the simulator [col.4, lns.32-64]. Further, changing a part of the XML document [= modification, see col.2, ln.60 - col.3, ln.6] and the real process is continuously updated [col.5, lns.9-21].

IV. Lienhard et al. do not teach anywhere in that passage the step of changing design characteristics of a network protocol to effect XML document generation process.

As to point (IV), Examiner respectfully disagrees because Lienhard teaches or suggests a step of changing design characteristics of a network protocol to effect XML document generation process [= the real

process is continuously updated, col.5, lns.9-21]. For instance, Lienhard discloses the real process can return XML data to the simulator and the behavior of the real process is influenced while during feedback the description of the state takes place form the real process to the simulator [col.4, lns.32-64] and that process model is continuously updated [col.5, ll.9-21].

V. There is no teaching or suggestion in the prior art for the combination.

As to point (V), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lienhard in view of Slaughter by validating XML document using a schema because this feature may ensure that only valid XML content is passed in a message [Slaughter, col.17, lns.65-66]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify Lienhard in view of Slaughter in order to support a variety of clients [Slaughter, col.21, lns.39-41].

(11) Related Processing Appendix

None

(11) Evidence Appendix

None

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Nghi V. Tran

November 15, 2005

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